

REMARKS

The application has been amended to address the cited informalities, to distinguish the claimed invention over the cited prior art, and to place the application into *prima facie* condition for allowance. Care has been taken to avoid the introduction of any new subject matter into the application as a result of the foregoing amendments.

Claim 2 has been rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s) at the time the application was filed, had possession of the claimed invention. Specifically, the Examiner has said that there is no support in the specification to describe what or where the locking connection between the securing means and the securing elements is at the "height of application vehicle crash stresses", and that it is unclear how this relates to the rails or receiving tracks.

In response thereto, Applicant respectfully submits that the language of claim 2 resulted from a less than perfect translation of claim 2 from the original German language priority document. Applicant respectfully submits that claim 2 has been cancelled. Accordingly the Examiner's basis for rejection of claim 2, under 35 U.S.C. 112, first paragraph, is now moot.

Claim 2 has been rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In particular, the Examiner has said that it is unclear what applicant is claiming by the securing means and securing elements and

receiving tracks are "arranged at the height of application of vehicle crash stresses" and that the specification does not describe what structure comprises this arrangement.

In response to the foregoing, inasmuch as claim 2 has been cancelled, Applicant respectfully submits that the Examiner's basis for rejection of claim 2, under 35 U.S.C. 112, second paragraph, is now moot.

Claims 1 – 3 and 4 have been rejected under 35 U.S.C. 102(b) as being anticipated by Miller et al. '684. Claims 1 – 4 have been rejected under 35 U.S.C. 102(e) as being anticipated by Larsen et al., U.S. Applicant respectfully traverses the Examiner's substantive bases for rejection of the claims.

Miller et al., U.S. 4,249,684 discloses a transportable box which can be anchored to rails and locked in place. The rails are mounted onto (above) the surface of the trunk floor of a vehicle. The rails are not lowered into the trunk floor and are not "flush" with the upper surface of the trunk, but are positioned above the level of the trunk floor, as shown in Figs. 1 and 2 of the '684 reference.

Larsen et al., U.S. Pub. No. 2001/0054532 A1 discloses an apparatus for releasably mounting a vehicle accessory to floor attachments, in the cargo space of a vehicle. The apparatus includes a frame and an attachment mechanism, which are external to the vehicle accessory. The frame is mounted to the lower surface of the vehicle accessory. Furthermore, the Larsen et al. reference does not disclose receiving tracks that are mounted flush with the surrounding floor area of the cargo space. As can be seen in Figs. 2 and 14, the areas immediately adjacent the actual rods which are hooked, are elevated above the level of the surrounding cargo space floor.

Applicant's invention of amended claim 1, however, is directed to a device for the fixation of dimensionally stable suitcases in a cargo space of a motor vehicle, wherein, in a cargo space floor (3), receiving tracks (4) are provided, which are associated with securing means (5) for the suitcases (6), wherein corresponding securing elements (10), which can be engaged with positive lock with the securing means (5) in the cargo space, are provided on the suitcases (6), and wherein actuation means (7, 8, 9) are provided for the manual separation of the securing means (5) and the securing elements (10) from each other, and arranged in the cargo space or on the suitcase, wherein the receiving tracks are integrally mounted within the cargo space floor, such that upper surfaces of the receiving tracks are of a level height with surrounding areas of the cargo space floor and are not elevated with respect to same. Support for this amendment is found in the specification as originally filed, at page 3, lines 28 to 32.

Applicant respectfully submits that none of the cited prior art, and especially neither the Miller et al. nor the Larsen et al. references even remotely teaches or suggests such a construction. Therefore, Applicant submits that the invention of amended claim 1 should be deemed to patentably distinguish over the cited references. Reconsideration and withdrawal of the rejection of claim 1, and allowance thereof are respectfully solicited.

Inasmuch as dependent claims 3 and 5 merely serve to further define the subject matter of amended claim 1, which itself should be deemed allowable, withdrawal of the rejections of claims 3 and 5, and allowance thereof, are respectfully requested.

Applicant additionally submits for the Examiner's consideration new independent claim 6, which is directed to a suitcase for use with a vehicle having receiving tracks disposed in its cargo area floor, which suitcase is provided with securing elements which are movable from positions within the interior of the suitcase, to deployed positions which extend to the exterior of the suitcase, for engaging the receiving tracks. Applicant respectfully submits that none of the prior art references even remotely teaches or suggests a suitcase construction as claimed in new claim 6. Accordingly applicant submits that claim 6 patentably distinguishes over the prior art of record, and reconsideration and allowance of claim 6 are respectfully solicited.

Inasmuch as new dependent claim 7 merely serves to further define the subject matter of new claim 6, which itself should be deemed allowable, claim 7 likewise should be deemed to patentably distinguish over the cited prior art, and consideration and allowance of same are respectfully solicited.

Applicant submits that the application as a whole, including claims 1, 3, 5 – 7, is now in *prima facie* condition for allowance, and reconsideration and allowance of the application as a whole are respectfully solicited.

Should anything further be required, a telephone call to the undersigned at (312) 456-8400 is respectfully requested.

Respectfully submitted,

GREENBERG TRAURIG

Dated: May 7, 2003

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CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Mail Stop Non-Fee Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on May 7, 2003.

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